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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/643,449	08/18/2003	Brad S. Cameron	43048.830002.US0	4403
26582	7590	05/08/2007		
HOLLAND & HART, LLP P.O BOX 8749 DENVER, CO 80201			EXAMINER BRINSON, PATRICK F	
			ART UNIT 3754	PAPER NUMBER
			MAIL DATE 05/08/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/643,449

Applicant(s)

CAMERON, BRAD S.

Examiner

Patrick F. Brinson

Art Unit

3754

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-25 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>8/18/2003</u> . | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the subject matter recited in claim 18 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective

action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3, 15-17, 19 and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. 4,033,474 to **Rentmeester**.

The patent to **Rentmeester** discloses a tubular member comprising a side wall formed into a tubular configuration the side wall having a first end and a second end opposite the first end. An attachment lip (20) located proximate the first end and an attachment overlap (12) located proximate the second end, with the attachment lip being substantially parallel to the attachment overlap when the sidewall is formed into the tubular configuration. A seal (18) to join the attachment lip and the attachment overlap in a sealing relationship such that a closed, tubular member is formed, as recited in claims 1 and 15. The seal is disclosed as being an organic cement or adhesive, as recited in claim 2. Fig. 1 discloses the method of forming the tubular member including applying the adhesive in a continuous layer as a part of forming the

tubular member and the step of applying pressure to the attachment lip and overlap such that the adhesive layer is compressed, as recited in claims 19 and 20.

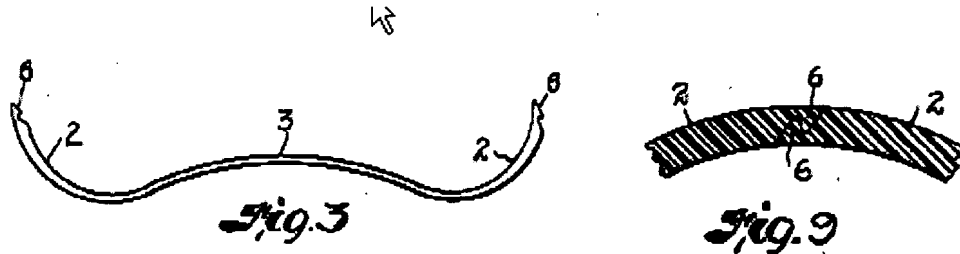
2. Claims 1-3, 7-10, 13-17, 19, 22 and 23 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. 3,369,568 to **Davis et al.**

The patent to **Davis et al.** discloses a tubular member comprising a sidewall, sidewalls having a first end and a second end opposed to the first end, an attachment lip (3) located proximate the first end and an attachment overlap (2) located proximate the second end, the attachment lip substantially parallel to the attachment lip overlap when formed into the tubular configuration, and a seal to join the attachment lip and the attachment overlap in a sealing relationship such that a closed, tubular member is formed, as recited in claim 1. The seal comprises a first end extension on the lip comprising a protrusion and a second end extension on the attachment overlap comprising protrusion, wherein the protrusions engage in a sealing relationship, as recited in claim 7. Col. 3 lines 21-24, discloses that the protrusions may be sealed with a low modulus sealant and a high modulus adhesive, as recited in claim 8. It is disclosed that the tubular body is formed from sheet metal blanks which are advanced through a series of work stations where the blank is flexed to remove stiffness and provide an elastically loaded attachment overlap. The material's natural tendency to revert back to it's original shape will provide a force to lock the protrusions (hooks).

3. Claims 1-3, 7-10, 13-15, 22 and 23 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. 2,782,805 to **Leadbetter**.

The patent to **Leadbetter** discloses a tubular member comprising a sidewall, sidewalls having a first end and a second end opposed to the first end, an attachment lip, including protrusion (6) located proximate the first end and an attachment overlap also including (6) located proximate the second end, the attachment lip substantially parallel to the attachment lip overlap when formed into the tubular configuration, and a seal to join the attachment lip and the attachment overlap in a sealing relationship such that a closed, tubular member is formed, as recited in claim 1. The overlap is elastically loaded in a first position when the sidewall is configured in a first position, as shown in fig. 3. The elastically loaded over lap being elastically deformed into the second position such that the sidewall is configured in a second configuration corresponding to the shape of the tubular member, as shown in figs. 2, 4 and 9. The lip and the elastically deformed overlap being substantially aligned when in the second position, with the elastically deformed second position supplying a seating force to join the lip and overlap such that a closed tubular member is formed, as recited in claim 9. Col. 3 discloses that the flexure of portion (3) will provide bending that will tend to conform to the contour of the portions (2). It is also disclosed that although

the tightness of the interlock may be sufficient, it is preferred that the seam be suitably cemented.



4. Claims 1 and 6 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. 5,028,740 to **Tomiya**.

The patent to **Tomiya** discloses a tubular member comprising a sidewall, sidewalls having a first end and a second end opposed to the first end, an attachment lip (10) located proximate the first end and an attachment overlap (11) located proximate the second end, the attachment lip substantially parallel to the attachment lip overlap when formed into the tubular configuration, and a seal to join the attachment lip and the attachment overlap in a sealing relationship such that a closed, tubular member is formed, as recited in claim 1. The seal comprises a mechanical fastener (3), being a rivet or eyelet, which extends from the attachment overlap to the attachment lip such that the overlap and lip are joined in a sealing relationship, as recited in claim 6.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 4, 5, 11, 12, 21, 24 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over in view **Davis et al.** of U.S. 3,809,799 to **Taylor**.

The patent to **Davis et al.** does not disclose the additional securing means including a mechanical fastener. The patent to **Taylor** discloses a duct wall (46) onto which a mounting clip (22) is mounted. Col. 2, lines 31-43, discloses that the wall is provided with a hole that will receive a screw to secure the clip to tube wall.

Alternatively, the clip may be attached by a suitable adhesive, such as shown at (50).

The adhesive can be applied to the clip or both the clip and pipe wall or combinations of adhesives and fasteners such as screws, can be used. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide a mechanical fastener, such as a screw to the connection of **Davis et al.**, as suggested by **Taylor** in order to provide additional securing to the connection.

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The patents to Quarnstrom, Karmazin, Anderson, Haack et al., Ecklund et al., Kaiser, Ingels, Walsh et al., and Bratsch are all pertinent to Applicant's invention in disclosing tubular conduits having first and second edges that are connected in some manner.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Patrick F. Brinson** whose telephone number is (571) 272-4897. The examiner can normally be reached on M-F 7:30-3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Kevin P. Shaver** can be reached on (571) 272-4720. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Patrick F. Brinson
Primary Examiner
Art Unit 3754

P. F. Brinson
April 2, 2007